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8 JEANE GREGORY,  
9 Plaintiff,  
10 v.  
11 JOEL A. HARRIS, et al.,  
12 Defendants.  
13

Case No. 21-cv-03311-VKD

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18 **ORDER GRANTING DEFENDANT  
JOEL HARRIS'S MOTION TO  
DISMISS**

19 Re: Dkt. No. 25

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21 Before the Court is defendant Joel A. Harris's motion to dismiss plaintiff Jeane Gregory's  
22 complaint. Dkt. No. 25. Although the complaint names several other defendants in addition to  
23 Mr. Harris, Ms. Gregory has since dismissed all claims against the other defendants. *See* Dkt.  
24 Nos. 57, 60.<sup>1</sup> The Court finds this matter is suitable for resolution without oral argument. Civil  
25 L.R. 7-1(b).

26 Having considered the parties' submissions and the record as a whole, the Court grants Mr.  
27 Harris's motion to dismiss with limited leave to amend.

28 **I. BACKGROUND**

Ms. Gregory alleges that Mr. Harris, an attorney, prepared her parents' estate plan, which  
included a will and trust. Dkt. No. 1 at 2-3, 5. In her will, Ms. Gregory's mother, Susana Sabado,  
named Ms. Gregory as the executor. *Id.* at 2. Her parents' trust, the Antonio and Susana Sabado  
Family Trust ("Trust"), named Ms. Gregory as the "sole successor trustee." *Id.*

Ms. Sabado died in March 2009. *Id.* After Ms. Sabado's death, Ms. Gregory alleges that

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<sup>1</sup> All named parties have consented to magistrate judge jurisdiction. Dkt. Nos. 21, 23.

1 contrary to the terms of the Trust, Mr. Harris sent a letter on March 26, 2009 to the Trust's  
2 beneficiaries naming defendant John C. Glaser (deceased) as trustee of the Trust. *Id.* at 2, 4-6.  
3 Mr. Glaser acted as trustee of the Trust until his death in 2016; Prime Fiduciary Services was  
4 appointed trustee thereafter. *Id.* at 6. Ms. Gregory also alleges that Mr. Harris "hid" her mother's  
5 will in violation of California Probate Code § 8200. *Id.* at 3.

6 Ms. Gregory says that in prior legal actions she has disputed the handling of her mother's  
7 will and the administration of the Trust, but that her efforts have been ignored or were  
8 unsuccessful. *Id.* at 2. Ms. Gregory refers to the following matters:<sup>2</sup>

- 9 • A "Petition to Remove Trustee" filed in May 2010 in *In re Antonio & Susana*  
10 *Sabado Family Trust, dated July 29, 1997*, No. 109PR166048 (Cal. Super. Ct. May  
20, 2010);
- 11 • An eighty-page petition filed in October 2017 in *Antonio and Susana Sabado*  
12 *Family Trust dated July 29, 1997*, No. 17PR181622 (Cal. Super. Ct. Oct. 12, 2017);
- 13 • A federal court complaint filed in October 2019 in *Gregory v. Small & Loeb GCA*  
14 *Law Partners, et al.*, No. 4:19-cv-147-BR, ECF 38 (E.D.N.C. Feb. 20, 2020) (order  
dismissing her complaint for lack of personal jurisdiction and improper venue); and
- 15 • A federal court complaint filed in May 2020 in *Gregory v. Harris, et al.*, No. 4:20-  
16 cv-084-BR, ECF 43 (E.D.N.C. Oct. 7, 2020) (order again dismissing her complaint  
for lack of personal jurisdiction and improper venue).

17  
18 See Dkt. No. 1 at 2.

19 Ms. Gregory filed this action pro se on May 4, 2021. Dkt. No. 1. Although the complaint  
20 does not specify any discrete claims for relief against Mr. Harris, Ms. Gregory appears to assert  
21 three bases of liability against him: first, that Mr. Harris defrauded Ms. Gregory's parents in an  
22 effort to "steal" their estate, *id.* at 5; second, that Mr. Harris, as counsel to the now-deceased

23  
24 <sup>2</sup> The Court takes judicial notice of these actions and the filings in them, as Ms. Gregory refers to  
25 these actions on page 2 of her complaint. Dkt. No. 1 at 2. Even if Ms. Gregory had not explicitly  
26 referenced these actions, the Court "may take notice of proceedings in other courts, both within  
27 and without the federal judicial system, if those proceedings have a direct relation to matters at  
28 issue." *U.S. ex rel. Robinson Rancheria Citizens Council v. Borneo, Inc.*, 971 F.2d 244, 248 (9th  
Cir. 1992) (internal quotation omitted); *see also Mir v. Little Co. of Mary Hosp.*, 844 F.2d 646,  
649 (9th Cir. 1988) ("In addition to the complaint, it is proper for the district court to take judicial  
notice of matters of public record outside the pleadings and consider them for purposes of the  
motion to dismiss.") (internal quotation omitted); Fed. R. Evid. 201(c).

1 former trustee Mr. Glaser, failed to enter her mother’s will into probate, *id.* at 4, 6, 10; and third,  
2 that Mr. Harris assisted Mr. Glaser in depriving Ms. Gregory of her position as successor trustee  
3 of the Trust, *id.* at 6.

4 Mr. Harris filed a motion to dismiss the claims against him on June 7, 2021. Dkt. No. 25.  
5 Ms. Gregory’s response to this motion was due on June 21, 2021. *See* Civ. L.R. 7-3(a). She did  
6 not file a response by that date. Instead, on June 24, 2021, Ms. Gregory filed a motion for  
7 summary judgment against Mr. Harris, which she subsequently characterized as a response to Mr.  
8 Harris’s motion to dismiss. Dkt. Nos. 42, 56. Mr. Harris objected to the Court’s consideration of  
9 Ms. Gregory’s motion for summary judgment as a belated opposition to his motion to dismiss,  
10 although he addressed Ms. Gregory’s arguments on the merits in a reply. Dkt. No. 59, 61. Ms.  
11 Gregory then filed two sur-replies and a notice of errata, without first obtaining leave to file these  
12 additional materials. Dkt. Nos. 62, 63, 64. She also filed a motion to amend/correct her “motion  
13 for summary judgment” / opposition to Mr. Harris’s motion to dismiss (Dkt. No. 65) and another  
14 “reply” addressed to several pending motions (Dkt. No. 74).<sup>3</sup> Most recently, Ms. Gregory filed a  
15 second motion for summary judgment against Mr. Harris. Dkt. No. 77.

## 16 **II. DISCUSSION**

17 Mr. Harris moves to dismiss Ms. Gregory’s claims against him on three grounds: first, for  
18 lack of personal jurisdiction due to improper service of process; second, for failure to state a claim  
19 on which relief may be granted; and third, because her claims are barred by the applicable statutes  
20 of limitations. Dkt. No. 25. The Court addresses each in turn.

### 21 **A. Service of Process**

22 Mr. Harris argues that the complaint should be dismissed pursuant to Rules 12(b)(4) and  
23 12(b)(5) of the Federal Rules of Civil Procedure because the summons is defective and was not  
24 properly served.

25 Rule 12(b)(4) concerns the form and content of the summons. Fed. R. Civ. P. 12(b)(4);

26  
27 <sup>3</sup> The Court stayed briefing on Ms. Gregory’s motion for summary judgment against Mr. Harris on  
28 June 25, 2021 (Dkt. No. 46), and continued this stay on July 6, 2021 (Dkt. No. 49). Mr. Harris has  
moved to strike Ms. Gregory’s most recent reply. Dkt. No. 76.

1        *U.S.A. v. Nutrasource, Inc. v. CAN Ins. Co.*, 140 F. Supp. 2d 1049, 1052 (N.D. Cal. 2001).  
2        “Dismissals for defects in the form of summons are generally disfavored.” *Nutrasource*, 140 F.  
3        Supp. 2d at 1052. “Technical defects in a summons do not justify dismissal unless a party is able  
4        to demonstrate actual prejudice.” *Chan v. Society Expeditions, Inc.*, 39 F.3d 1398, 1404 (9th Cir.  
5        1994) (citation omitted).

6        Mr. Harris argues that the summons is defective because, while the complaint names “Joel  
7        A. Harris” as a defendant, it is addressed to “Joel A. Harris Law Offices,” a different entity. Dkt.  
8        No. 25 at 2. This argument is frivolous. The issued summons is addressed to “Joel A. Harris,”  
9        followed by a line break and then the words “Law Offices,” with a street address, city, and state.  
10       Dkt. No. 11. Because it is clear that the summons is directed to Mr. Harris and not to his law  
11       practice, the Court denies Mr. Harris’s motion to dismiss under Rule 12(b)(4).

12       Rule 12(b)(5) concerns the method of service of process. Fed. R. Civ. P. 12(b)(5);  
13       *Nutrasource*, 140 F. Supp. 2d at 1052. Where service is improper under Rule 4, the court has  
14       discretion to either dismiss the action or quash service. *Garcia v. Doe White Trucking Co.*, No.  
15       20-cv-00134-SI, 2020 WL 1156911, at \*2 (N.D. Cal. Mar. 10, 2020) (citing *S.J. v. Issaquah Sch.*  
16       *Dist. No. 411*, 470 F.3d 1288, 1293 (9th Cir. 2006)). “Rule 4 is a flexible rule that should be  
17       liberally construed to uphold service so long as a party receives sufficient notice of the complaint.”  
18       *Crowley v. Bannister*, 734 F.3d 967, 975 (9th Cir. 2013) (quoting *Benny v. Pipes*, 799 F.2d 489,  
19       492 (9th Cir. 1986)). Service must be made in substantial compliance with Rule 4. *Id.* at 975.

20       Mr. Harris argues that Ms. Gregory failed to comply with Rule 4(e) because she did not  
21       follow California law for serving a summons, Fed. R. Civ. P. 4(e)(1), or use any of the prescribed  
22       alternatives, Fed. R. Civ. P. 4(e)(2)(A)–(C). Specifically, although Mr. Harris acknowledges  
23       receiving the summons and complaint, he contends that it was improper for Ms. Gregory to mail  
24       these documents to his business address without first attempting to deliver them by personal  
25       service. Dkt. No. 25 at 2. But California law provides that “[a] summons may be served by mail”  
26       pursuant to Cal. C.C.P. § 415.30, and Mr. Harris cites no authority for his contention that a  
27       plaintiff must first attempt service by personal delivery. As the failure to provide personal service  
28       is Mr. Harris’s *sole* objection to the method of service, the Court denies his motion to dismiss

1 under Rule 12(b)(5).

2 **B. Failure to State a Claim**

3 Mr. Harris argues that the complaint fails to state a claim upon which relief may be  
4 granted. “A motion to dismiss under Federal Rule of Civil Procedure 12(b)(6) for failure to state a  
5 claim upon which relief can be granted ‘tests the legal sufficiency of a claim.’” *Conservation*  
6 *Force v. Salazar*, 646 F.3d 1240, 1241–42 (9th Cir. 2011) (quoting *Navarro v. Block*, 250 F.3d  
7 729, 732 (9th Cir. 2001)). When determining whether a claim has been stated, the Court accepts  
8 as true all well-pled factual allegations and construes them in the light most favorable to the  
9 plaintiff. *Reese v. BP Exploration (Alaska) Inc.*, 643 F.3d 681, 690 (9th Cir. 2011). While a  
10 complaint need not contain detailed factual allegations, it “must contain sufficient factual matter,  
11 accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556  
12 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). A claim is  
13 facially plausible when it “allows the court to draw the reasonable inference that the defendant is  
14 liable for the misconduct alleged.” *Id.* Where a plaintiff appears pro se, as in this case, the Court  
15 must construe the plaintiff’s pleadings liberally, holding them to “less stringent standards than  
16 formal pleadings drafted by lawyers.” *Erickson v. Pardus*, 551 U.S. 89, 94 (2007).

17 **1. Fraud against Ms. Gregory’s parents**

18 Although the complaint does not expressly plead a fraud claim, Ms. Gregory alleges that  
19 Mr. Harris, together with Mr. Glaser, “lied to [her] parents” “so they could steal [her parents’]  
20 estate!” Dkt. No. 1 at 5. Presumably, Ms. Gregory contends that she was harmed by Mr. Harris’s  
21 alleged misrepresentations to her parents by virtue of her role as a beneficiary of the Trust and as  
22 the designated successor trustee. *See* Dkt. No. 1 at 10.

23 “To state a claim for fraud under California law, a plaintiff must allege: (1) a  
24 misrepresentation (false representation, concealment, or non-disclosure); (2) knowledge of falsity  
25 (or scienter); (3) intent to defraud (i.e., to induce reliance); (4) justifiable reliance; and (5)  
26 resulting damage.” *Arena Restaurant and Lounge LLC v. Southern Glazer’s Wine and Spirits,*  
27 *LLC*, No. 17-CV-03805-LHK, 2018 WL 1805516, at \*8 (N.D. Cal. Apr. 16, 2018) (quoting *Lazar*  
28 *v. Super. Ct.*, 12 Cal. 4th 631, 638 (1996)). As the action is now in federal court, Ms. Gregory

1 must plead her claim with particularity. Fed. R. Civ. P. 9(b); *Kearns v. Ford Motor Co.*, 567 F.3d  
2 1120, 1125 (9th Cir. 2009). This requires specificity, “including an account of the time, place, and  
3 specific content of the false representations as well as the identities of the parties to the  
4 misrepresentations.” *Swartz v. KPMG LLP*, 476 F.3d 756, 764 (9th Cir. 2007).

5 Ms. Gregory’s complaint does not satisfy the heightened pleading requirements of Rule  
6 9(b). She does not identify the false statements she contends Mr. Harris made to her parents. She  
7 does not plead any facts suggesting that Mr. Harris knew any such statements were false when  
8 they were made or that he intended to induce reliance by Ms. Gregory’s parents on such  
9 statements. As it is not clear what the alleged false statements are, it also is not clear whether Ms.  
10 Gregory’s parents relied on the statements or whether Ms. Gregory or her parents were harmed as  
11 a result. Because Ms. Gregory has not alleged facts sufficient for Mr. Harris or this Court to  
12 understand the bases for her allegations of fraud, the Court concludes that Ms. Gregory has failed  
13 to state a claim against Mr. Harris for fraud under Rules 9(b) and 12(b)(6).

14 **2. Failure to enter Ms. Gregory’s mother’s will into probate**

15 Ms. Gregory also appears to contend that Mr. Harris failed to enter her mother’s will into  
16 probate as required by California law. Dkt. No. 1 at 4, 6, 10. Under California Probate Code  
17 § 8200(a), “the custodian of the will shall, within 30 days after having knowledge of the death of  
18 the testator, do both of the following: (1) Deliver the will, personally or by registered or certified  
19 mail, to the clerk of the superior court of the county in which the estate of the decedent may be  
20 administered. (2) Deliver a copy of the will pursuant to Section 1215 to the person named in the  
21 will as executor, if the person’s whereabouts is known to the custodian, or if not, to a person  
22 named in the will as a beneficiary, if the person’s whereabouts is known to the custodian.” Under  
23 Probate Code § 8200(b), “[a] custodian of a will who fails to comply with the requirements of this  
24 section shall be liable for all damages sustained by any person injured by the failure.”

25 Here, Ms. Gregory alleges that Ms. Sabado’s will has “never ever been seen in California,”  
26 because “Harris/Glaser had hidden away the Susana Sabado ‘Last Will and Testament.’” Dkt. No.  
27 1 at 2, 6. As a result, Ms. Gregory has “never had the opportunity to act as [her] mother’s  
28 chosen/appointed Executor.” *Id.* at 5. In his motion to dismiss, Mr. Harris asserts that all of Ms.

1 Sabado's assets were owned by the Trust, or later confirmed to the Trust by an order of the Santa  
2 Clara County Superior Court, dated February 11, 2010. Dkt. No. 25 at 7; Dkt. No. 25, Ex. 4. Mr.  
3 Harris argues that because trust assets are not subject to probate court jurisdiction in California,  
4 Ms. Gregory fails to state a claim regarding his handling of Ms. Sabado's will. Dkt. No. 25 at 7;  
5 Dkt. No. 25, Ex. 4.

6 The Court accepts as true all well-pled allegations of material fact in the complaint and  
7 construe them in the light most favorable to Ms. Gregory. *See Reese*, 643 F.3d at 690. The Court  
8 takes judicial notice of the February 11, 2010 state court order confirming Mr. Glaser as successor  
9 trustee and the transfer of certain assets to the Trust, as the court order is a matter of public record  
10 with a direct relation to these proceedings. *U.S. ex rel. Robinson Rancheria Citizens Council*, 971  
11 F.2d at 248; *Mir*, 844 F.2d at 649; Fed. R. Evid. 201(c). However, it is not clear that the February  
12 11, 2010 order compels a finding that Ms. Gregory fails to state a claim. While the parties appear  
13 to agree that Ms. Sabado's will was a "pour-over" will—i.e., a will under which all of the  
14 testator's assets not already included in a trust are transferred to the trust upon her death, Dkt. No.  
15 42 at 6, Mr. Harris cites no authority for his assertion that such a will is not subject to California  
16 Probate Code § 8200(a). That statute makes no exception for wills that devise property to a trust.  
17 And while it appears that in some circumstances estate property may be distributed without  
18 awaiting probate of a will, *see, e.g.*, Cal. Prob. Code § 13100, Mr. Harris does not rely on this  
19 statute and has not shown that those circumstances are present here. Accordingly, it is not clear  
20 whether Ms. Sabado's non-trust assets qualified for transfer to the Trust without probate  
21 administration, or whether Ms. Sabado's will accomplished such a transfer. For this reason, the  
22 Court denies Mr. Harris's motion to dismiss Ms. Gregory's claim that he failed to enter Ms.  
23 Sabado's will into probate.

24 **3. Assisting Mr. Glaser in depriving Ms. Gregory of her role as trustee**

25 Finally, Ms. Gregory appears to contend that Mr. Harris assisted Mr. Glaser (the former  
26 trustee) in Mr. Glaser's alleged efforts to deprive Ms. Gregory of her position as successor trustee  
27 of the Trust. Dkt. No. 1 at 6. It is not clear what theory of liability Ms. Gregory relies upon, and  
28 Mr. Harris's motion to dismiss does not specifically address these allegations. *See* Dkt. No. 25.

10 The allegations of the complaint are insufficient to state a claim for aiding or abetting a  
11 breach of fiduciary duty, if indeed, Ms. Gregory intends to plead such a claim, which is not clear.

### C. Statute of limitations

13 Mr. Harris argues that any claim arising from the theories of liability on which Ms.  
14 Gregory relies is necessarily time-barred. Dkt. No. 25 at 8; *see also* Dkt. Nos. 59, 61. Ms.  
15 Gregory does not address this argument in her opposition.

If the expiration of the applicable statute of limitations is apparent from the face of the complaint, the defendant may raise a statute of limitations defense in a Rule 12(b)(6) motion to dismiss. *Conerly v. Westinghouse Elec. Corp.*, 623 F.2d 117, 119 (9th Cir. 1980). “A dismissal motion should be granted, ‘only if the assertions of the complaint, read with the required liberality, would not permit the plaintiff to prove that the statute was tolled.’” *Id.* (quoting *Jablon v. Dean Witter & Co.*, 614 F.2d 677, 682 (9th Cir. 1980)). However, where the statute of limitations question turns on factual issues that may be disputed, the question is more appropriately addressed at a later stage of the proceeding. *Jablon*, 614 F.2d at 682.

24 It appears from the allegations of the complaint that all three of Ms. Gregory's possible  
25 claims may be barred by the applicable statutes of limitations. First, to the extent Ms. Gregory  
26 alleges that Mr. Harris committed fraud by making misrepresentations to her parents, the claim  
27 must be brought within three years of the date the fraud is discovered. *See* Cal. C.C.P. § 338(d);  
28 *Stueve Bros. Farms, LLC v. Berger Kahn*, 222 Cal. App. 4th 303, 321–22 (2013). Because Ms.

1 Gregory does not plead facts identifying Mr. Harris's alleged misrepresentations or supporting the  
2 other elements of her claim, it is not clear when the alleged fraud occurred or was discovered.  
3 However, to the extent Ms. Gregory's fraud claim relies on the appointment of Mr. Glaser as  
4 trustee, she concedes that she received notice of such appointment from Mr. Harris in a letter dated  
5 March 26, 2009—more than 12 years before she filed her complaint in this action. *See* Dkt. No. 1  
6 at 5–6.

7 Second, to the extent Ms. Gregory alleges that Mr. Harris failed to enter Ms. Sabado's will  
8 into probate as required by California law, such a claim must be brought within one year after Ms.  
9 Gregory discovered the alleged wrongdoing or within four years of the date on which the alleged  
10 wrongdoing occurred, whichever is earlier. *See* Cal. C.C.P. § 340.6(a); *The Richard Musgrave*  
11 *Bypass Trust*, 2015 WL 6955013, at \*8-14 (applying the statute of limitations set forth in Cal.  
12 C.C.P. § 340.6(a) to a claim for violation of Cal. Prob. Code § 8200 for failure to deliver a will to  
13 probate within 30 days of learning of decedent's death); *see also Vafi v. McCloskey*, 193 Cal. App.  
14 4th 874, 882–83 (2011) (Cal. C.C.P. § 340.6 applies to a plaintiff who is not a client of the  
15 attorney but who has suffered injury as a result of the attorney's wrongful act or omission). Here,  
16 Ms. Gregory says that in 2011, she discovered Mr. Harris's alleged concealment of her mother's  
17 will when the will "appear[ed] in Arizona" "two years and four months after [her mother] had  
18 passed away" in 2009. Dkt. No. 1 at 6. Thus, Mr. Harris's alleged failure to enter Ms. Sabado's  
19 will into probate within 30 days of learning of Ms. Sabado's death occurred in 2009, and Ms.  
20 Gregory learned of the alleged failure in 2011. Ms. Gregory was required to bring her claim  
21 against Mr. Harris for failing to enter the will into probate in 2012, within one year of her  
22 discovery of Mr. Harris's wrongdoing.<sup>4</sup> *See* Cal. C.C.P. § 340.6(a). Ms. Gregory filed her  
23 complaint more than eight years after this date.

24 Third, to the extent Ms. Gregory claims that Mr. Harris assisted Mr. Glaser in breaching a  
25 fiduciary duty owed to Ms. Gregory and/or her parents, such a claim must also be brought within  
26 one year of the plaintiff's discovery of the facts constituting the wrongdoing, or within four years  
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28 <sup>4</sup> Although Ms. Gregory alleges willful concealment by Mr. Harris, Cal. C.C.P. § 340.6(a)(3) only  
tolls the four-year limitation, which is not applicable here.

1 from the date of the wrongdoing, whichever is earlier. Cal. C.C.P. § 340.6(a). Because Ms.  
2 Gregory does not plead facts sufficient to state a claim for aiding and abetting a breach of  
3 fiduciary duty, it is not clear when the alleged misconduct occurred or was discovered. However,  
4 to the extent Ms. Gregory's claim relies on the appointment of Mr. Glaser as trustee, she concedes  
5 that she received notice of such appointment from Mr. Harris in a letter dated March 26, 2009—  
6 more than 12 years before she filed her complaint in this action. *See* Dkt. No. 1 at 5–6.

7 Accordingly, it appears from the face of Ms. Gregory's complaint that all three of her  
8 possible claims may be barred by the applicable statutes of limitations.

### 9 **III. LEAVE TO AMEND**

10 "A pro se litigant must be given leave to amend his or her complaint, and some notice of  
11 its deficiencies, unless it is absolutely clear that the deficiencies of the complaint could not be  
12 cured by amendment." *Cato v. United States*, 70 F.3d 1103, 1106 (9th Cir. 1995). It appears from  
13 the face of the complaint that Ms. Gregory's claim against Mr. Harris for failing to enter Ms.  
14 Sabado's will into probate is barred by the statute of limitations set forth in Cal. C.C.P. § 340.6(a).  
15 Given Ms. Gregory's allegations regarding the date she learned of the facts giving rise to such a  
16 claim, the Court concludes that amendment would be futile, as she could not plead any additional  
17 facts that could render this claim timely.

18 However, it is not possible for the Court to conclude as a matter of law that the  
19 deficiencies described above with respect to Ms. Gregory's claims against Mr. Harris for fraud or  
20 for assisting Mr. Glaser in breaching a fiduciary duty to her and/or her parents could not be cured  
21 by amendment, as the allegations that comprise the bases for these claims have not been  
22 sufficiently pled. Leave to amend is appropriate in these circumstances.

### 23 **IV. CONCLUSION**

24 The Court dismisses with prejudice Ms. Gregory's claim against Mr. Harris for failing to  
25 enter Ms. Sabado's will into probate. The Court dismisses Ms. Gregory's remaining claims  
26 without prejudice. Ms. Gregory may file an amended complaint addressing the deficiencies  
27 identified in this order by **February 7, 2022**. Ms. Gregory may not assert any new federal or state  
28 claims against Mr. Harris or any other party, absent leave of Court.

1       In view of the foregoing, the Court denies Ms. Gregory's motions for summary judgment  
2 and her motion to amend/correct her motion for summary judgment (Dkt. Nos. 42, 65, 77). The  
3 parties' outstanding motions to stay and to strike are denied as moot (Dkt. Nos. 45, 76).

4       The Court encourages Ms. Gregory to seek out the assistance of the Federal Pro Se  
5 Program, which offers free legal information for pro se litigants. While the Program does not  
6 provide legal representation, a licensed attorney may assist Ms. Gregory in determining whether  
7 she has viable claims and may provide guidance regarding how to properly plead them. The  
8 Program's phone number is (408) 297-1480. More information about the Program is available on  
9 the Court's website at <https://cand.uscourts.gov/helpcenters>.

10       Ms. Gregory may also wish to consult a manual the Court has adopted to assist pro se  
11 litigants in presenting their case. An online version of the manual, as well as other free  
12 information for pro se litigants, is available on the Court's website at  
13 <https://cand.uscourts.gov/pro-se>.

14       **IT IS SO ORDERED.**

15       Dated: January 6, 2022

16         
17       VIRGINIA K. DEMARCHI  
18       United States Magistrate Judge